

**ZONING RECLASSIFICATION APPLICATION****Harford County  
Board of Appeals**

Bel Air, Maryland 21014

*Shaded Area For Office Use Only*Case No. 118Date Filed 6/16/06

Hearing Date \_\_\_\_\_

Pre-Conf. \_\_\_\_\_

Receipt \_\_\_\_\_

Fee 1330.00

JUN 21 2006

**Note**

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

**Petitioner**Name Robert B. & Catherine Carter Phone Number (atty) 410-893-7500Address 4809 Long Green Road, Long Green, MD 21092  
*Street Number Street State Zip Code*Property Owner same as above Phone Number \_\_\_\_\_Address \_\_\_\_\_  
*Street Number Street State Zip Code*Contract Purchaser 95-543 LLC Phone Number (atty) 410-893-7500Address Suite 450, 10705 Charter Drive, Columbia, MD 21044  
*Street Number Street State Zip Code*Attorney/Representative Kevin J. Mahoney, Esquire Phone Number 410-893-7500Address Gessner, Snee, Mahoney & Lutche, PA, 11 S. Main St., PO Box 1776, Bel Air, MD 21014  
*Street Number Street State Zip Code*

## Land Description

Address and Location of Property (with nearest intersecting road) S/s of Route 543, near I-95,  
North of Belcamp, MD

Subdivision -- Lot Number -- Acreage/Lot Size 72.83AC Election District 01

Existing Zoning AG Proposed Zoning MO Acreage to be Rezoned ALL

Tax Map No. 57 Grid No. 4D Parcel 85 Deed Reference 1390/438

Critical Area Designation N/A Land Use Plan Designation MO

Present Use and ALL improvements: NONE

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.

Example: Conventional, Conventional with Open Space, Planned Residential Development) a corporate campus  
office park with auxiliary retail servicing the offices along with restaurant and hotel  
with potential conference center.

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

NO If yes, describe: \_\_\_\_\_

Estimated Time Requested to Present Case: 3 hours

## Required Information To Be Attached

*(Submit three (3) copies of each):*

(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

(2) A statement as to whether there is an

allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

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- I. A substantial change has occurred in the neighborhood of the subject property since the last comprehensive zoning which would justify rezoning of the subject property to Mixed Office (MO).

The subject property totaling approximately 72.83 acres at the northwest quadrant of I-95 and Maryland Route 543. Applicant defines the neighborhood of the subject properties as set forth on the attached map as roughly James Run to the North and West, Cullum Road and Creswell Road to the east and Church Creek and the Bush River to the South.

In 1996, recognizing the potential economic development value of the Route 543 I-95 interchange, Harford County created a new land use category, mixed office (MO). This category was defined as areas designated to permit and promote major economic development opportunities such as corporate offices, research and development facilities, institutional uses, limited manufacturing and assembly uses or other uses which create significant job opportunities and investment benefits. The new designation was applied generally to the Route 543 and Route 22 interchanges of Interstate 95. Despite the creation of the Mixed Office Land Use category, no corresponding zoning classification was created for mixed office use. In the 1997 comprehensive zoning process, the subject properties remained zoned agricultural (AG).

In December of 2005, the Harford County Council created a mixed office (MO) zoning classification. The provisions of the MO zoning classification mirror those of the MO land use plan designation. At the time that the 1997 comprehensive zoning was conducted, no MO zoning classification existed. The subsequent enactment of the MO zoning district legislation is a substantial change in the neighborhood of the subject property. In the 2005/2006 comprehensive zoning process, which was rendered null and void by veto of the County Executive, the Harford County Planning Department and the County Council recommended MO zoning for the subject property. In 2005, the Master Land Use Plan assigned the MO land use designation specifically to the subject property.

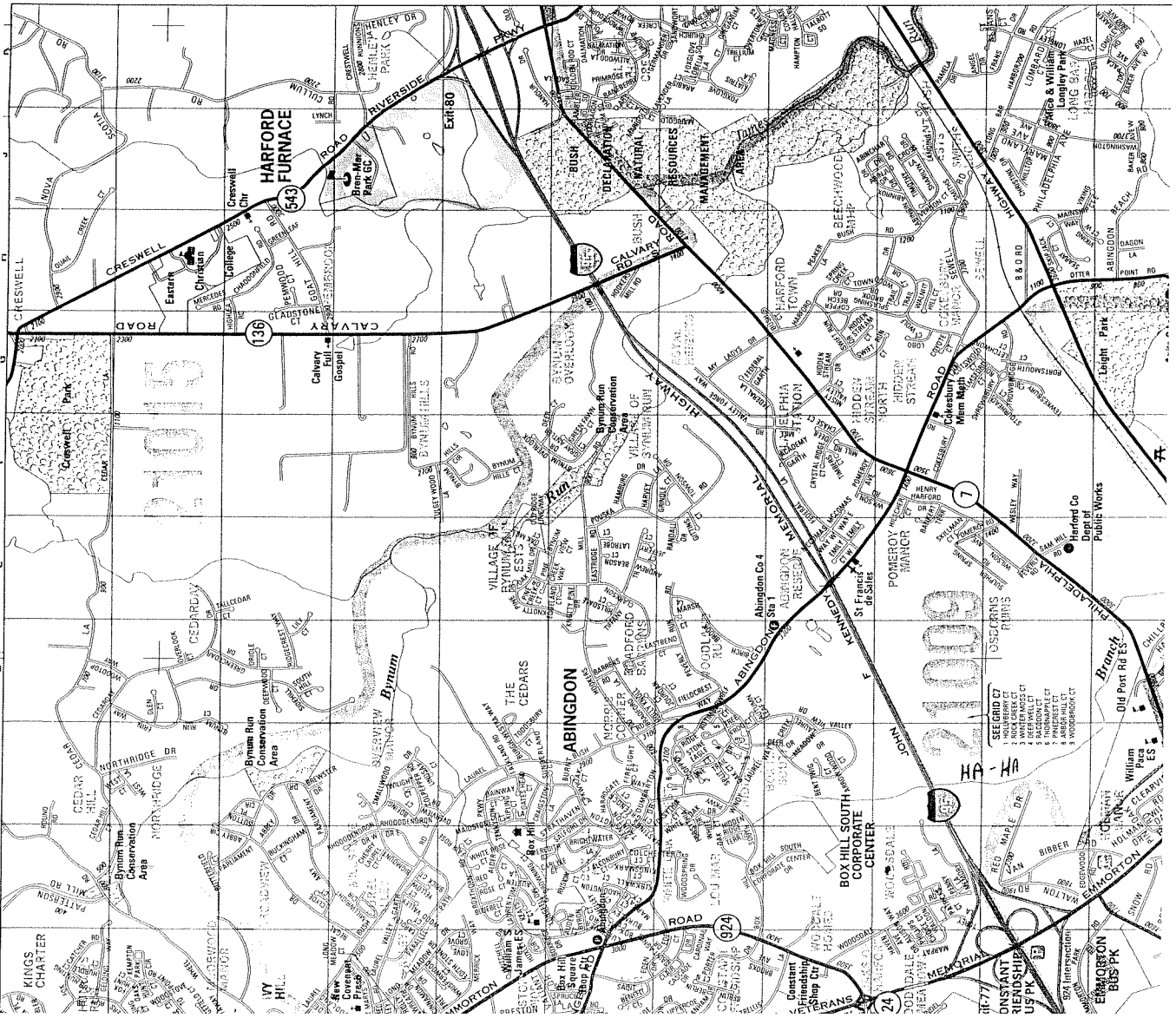
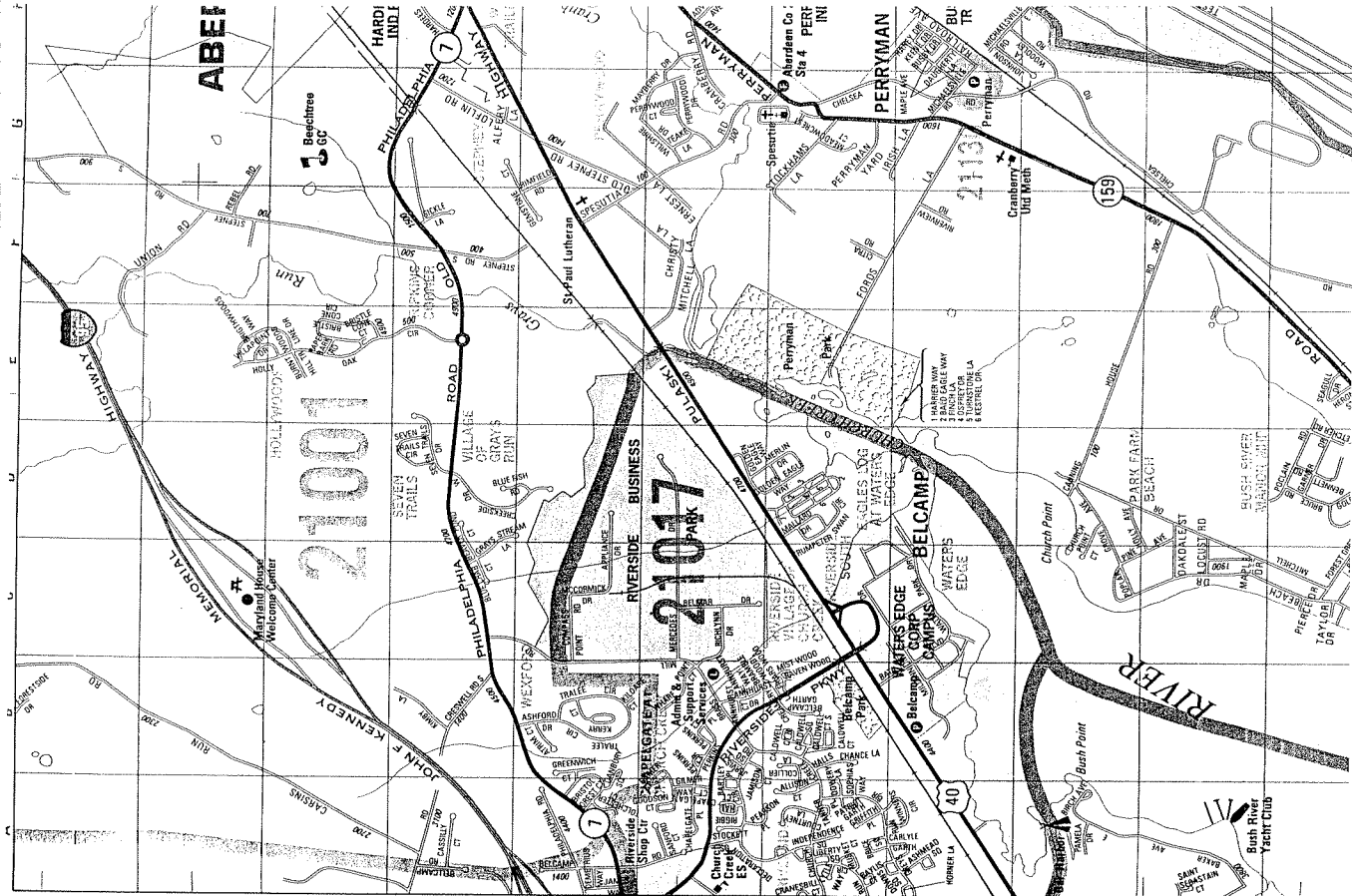
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In addition, the Base Relocation and Closing (BRAC) process will result in the relocation of thousands of jobs to the Aberdeen Proving Ground/Edgewood Arsenal complex. As such, the need for office, research and service uses as envisioned by the owners of the subject property has become even greater and the ability to locate these uses at a key interstate highway intersection in close proximity to military facilities is essential. As such, the BRAC process also poses a substantial change to the character of the neighborhood since the previous comprehensive zoning.

- II. The Harford County Council made a mistake in zoning the subject property Agricultural during the 1997 comprehensive zoning process.

Recognizing the value of the subject property in proximity to the I-95/Route 543 interchange in 1996, the Harford County Council assigned the subject property the Mixed Office (MO) land use designation. Despite this, the Council failed to create a mixed office zoning classification and instead retained the long-standing agricultural zoning classification of the subject property. The agricultural classification is inconsistent with the land use plan designation. Furthermore, the subject property is not appropriate for agricultural use or development. The Council correctly noted that the appropriate land uses for the subject property were mixed office as defined under the 1996 Land Use Plan. Even without the existence of an MO Zoning Classification in 1997, the Council should have zoned the property to a higher intensity which would have been consistent with the land use plan designation of mixed office (MO).





DAVID R. CRAIG  
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO  
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

August 11, 2006

### STAFF REPORT

### **BOARD OF APPEALS CASE NO. 118**

APPLICANT/OWNER: Robert B. and Catherine Carter  
4809 Long Green Road, Long Green, Maryland 21092

CONTRACT PURCHASER: 95-543 LLC  
Suite 450, 10705 Charter Drive, Columbia, Maryland 21044

REPRESENTATIVE: Kevin J. Mahoney, Esquire  
Gessner, Snee, Mahoney and Lutche, PA,  
11 South Main Street, PO Box 1776, Bel Air, Maryland 21014

LOCATION: N/W of Route 543, near I-95, North of Belcamp, Maryland  
Tax Map: 57 / Grid: 4D / Parcel: 85  
Election District: First (1)

ACREAGE: 72.83 acres

ACREAGE TO BE ZONED: 72.83 acres

EXISTING ZONING: AG/Agricultural

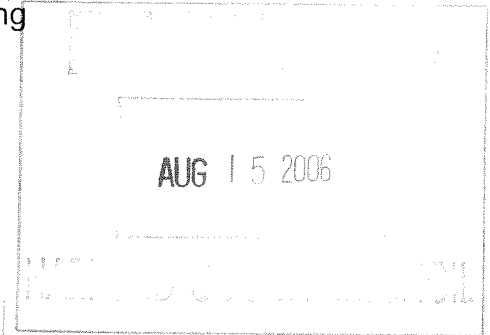
PROPOSED ZONING: MO/Mixed Office District

DATE FILED: June 16, 2006

HEARING DATE: August 30, 2006

### **APPLICANT'S REQUEST and JUSTIFICATION:**

See ATTACHMENT 1.



*Preserving Harford's past; promoting Harford's future*

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Robert & Catherine Carter and 95-543 LLC

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### **LAND USE and ZONING ANALYSIS:**

#### Location and Description of Neighborhood:

The subject property is located at the northwest corner of the MD Route 543 and I-95 interchange. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The neighborhood can generally be described as that area bordered by MD 136 and James Run to the west, MD 543 and Creswell Road and Cullum Road to the east, Otter Point Creek, Church Creek and Bush River to the south. Attached is a map of the neighborhood as defined by the Department (Attachment 4).

#### Land Use – Master Plan:

The subject property is located on the north side of Interstate 95 and the west side of Creswell Road (MD Route 543). The predominant land use designation north of I-95 is Agricultural with MO/Mixed Office located at the I-95 and MD-543 interchange. The area to the south of I-95 contains a mix of Low, Medium and High Intensities and Industrial/Employment. The Natural Features Map reflects Chesapeake Bay Critical Area, Sensitive Species Project Review Areas, and stream systems. The subject property is designated as MO/Mixed Office District which is defined by the 2004 Master Plan as:

***Mixed Office** – Areas designed to promote major economic development opportunities such as corporate offices, research and development facilities, and high-tech services, which create significant job opportunities and investment benefits. This area may also include limited retail use to service the employment center. Designated at strategic I-95 interchanges, development will be subject to specific performance, architectural, and site design standards.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

#### Land Use – Existing:

The subject property is located in the southern area of the County. There are two major transportation thoroughfares that serve this area: Interstate I-95 (JFK Memorial Highway) and U.S. Route 40 (Pulaski Highway). The area contains a mix of stream valleys and land that separates the Coastal Plain from the Piedmont areas. The development of Riverside contains a variety of residential, commercial and Industrial uses that form a community. The area north of I-95 is more rural and contains a mix of agricultural and single family residential and institutional uses. Enclosed with the report is a copy of the aerial photograph (Attachment 7).



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The subject property is located on the northwest corner of the I-95 and MD Route 543 interchange. The property consists of approximately 72.83 acres. The property currently contains open fields and dense woodland. The topography of the property is typical of the area, ranging from rolling to steep. Enclosed with the report is an enlargement of the aerial photograph for the subject site and a copy of a topography map (Attachment 8 and 9).

### Zoning and Zoning History:

#### Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan. To the north side of I-95 the zoning includes AG/Agricultural and RR/Rural Residential. There are also a few parcels zoned B1/Neighborhood Business and B2/Community Business Districts. To the south of I-95 within the development envelope the zoning is more intensive. Residential zoning ranges from R1 to R4/Urban Residential Districts. Commercial zoning includes B1/Neighborhood Business, B2/Community Business and B3/General Business Districts. Industrial zoning includes CI/Commercial Industrial and GI/General Industrial Districts.

The subject property is zoned AG/Agricultural as shown on the enclosed Zoning maps (Attachment 10A and 10B).

#### Zoning History:

The property was zoned A1 Agricultural in 1957. In 1982 the A1 classification was changed to AG/Agricultural. The property maintained its AG classification during the 1989 and 1997 comprehensive rezonings. Enclosed with the report are copies of the 1957, 1982, 1989, and 1997 comprehensive zoning maps (Attachments 11, 12, 13, and 14).

2005 Comprehensive Zoning Review: The applicant requested that the property be rezoned from AG/Agricultural to B3 during the 2005 comprehensive zoning review. The County Council voted to rezone the property MO/Mixed Office. However, the County Executive vetoed the legislation and the County Council did not override the veto. Therefore, the zoning assigned to the property in 1997 remains in effect. Enclosed is a copy of the zoning log (Attachment 15).

### **BASIS FOR INDIVIDUAL REZONING REQUEST:**

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted that the Courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

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### Substantial Change Argument:

The Applicant states that substantial change has occurred in the neighborhood of the subject property since the last Comprehensive Rezoning Review process that would justify rezoning the subject site to Mixed Office (MO).

“In 1996 recognizing the potential economic development value of Route 543(I-95 interchange, Harford County created a new land use category, mixed office (MO). This category was defined as areas designated to permit and promote major economic development opportunities such as corporate offices, research and development facilities, institutional uses, limited manufacturing and assembly uses or other uses which created significant job opportunities and investment benefits. The new designation was applied generally to the Route 543 and Route 22 interchanges of Interstate 95. Despite the creation of the Mixed Office Land Use category, no corresponding zoning classification was created for mixed office use. In the 1997 comprehensive zoning process, the subject properties remained zoned agricultural (AG).

In December of 2005, the Harford County Council created a mixed office (MO) zoning classification. The provisions of the MO zoning classification mirror those of the MO land use plan designation. At the time that the 1997 comprehensive zoning was conducted, no MO zoning classification existed. The subsequent enactment of the MO zoning district legislation is a substantial change in the neighborhood of the subject property. In the 2005/2006comprehensive zoning process, which was rendered null and void by veto of the County Executive, the Harford County Planning Department and the County Council recommended MO zoning for the subject property. In 2005, the Master Land Use Plan assigned the MO land use designation specifically to the subject property.

In addition, the Base Relocation and Closing (BRAC) process will result in the relocation of thousands of jobs to the Aberdeen Proving Ground /Edgewood Arsenal complex. As such, the need for office, research and services uses as envisioned by the owners of the subject property has become even greater and the ability to locate these uses at a key interstate highway intersection in close proximity to military facilities is essential. As such, the BRAC process also poses a substantial change to the character of the neighborhood since the previous comprehensive zoning.”

The Department does not agree that a substantial change in the character of the neighborhood has occurred. The development which has occurred in the neighborhood has been in accordance with the Land Use Plan and the existing zoning. The Department is aware of BRAC and has been actively involved with State, Federal and Military officials in planning for the relocation process. This Department, however, disagrees with the Applicants argument that the BRAC process has caused a substantial change in the existing neighborhood.

### Mistake:

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The Applicants maintain that there is a mistake in the existing zoning. "Recognizing the value of the subject property in proximity to the I-95/Route 543 interchange in 1996, the Harford County Council assigned the subject property the Mixed Office (MO) land use designation. Despite this, the Council failed to create a Mixed Office zoning classification and instead retained the long-standing agricultural zoning classification of the subject property. Furthermore, the subject property is not appropriate for agricultural use. The Council correctly noted that the appropriate land uses for the subject property were mixed office as defined under the 1996 Land Use Plan. Even without the existence of an MO Zoning Classification in 1997, the Council should have zoned the property to a higher intensity which would have been consistent with the land use plan designation of mixed office (MO)."

The Department agrees that a mistake has occurred regarding the existing zoning. This property was designated as MO on the 1996 Land Use Plan and is currently shown as MO on the 2004 Land Use Plan. However, the MO zoning classification was not adopted until 2005. Therefore, the County Council was unable to rezone the property to this classification in 1997. The MO zoning classification is clearly the most appropriate classification for this property.

### **ANALYSIS OF INDIVIDUAL ZONING REQUEST:**

#### Conformance with the Master Plan and Land Use Element Plan:

The proposed rezoning is in conformance with the intent of the 2004 Master Plan. The Land Use Map shows the parcel designated as Mixed Office (MO).

#### Impact on Requested Zoning:

The requested rezoning would allow the property to be developed consistent with the intent of the Master Plan. The Development will be bordered by Route 543 and I-95. The proposal will be buffered from the neighborhoods to the north and west by James Run and its required buffers.

### **COMMENTS FROM ADVISORY GROUPS:**

#### Historic Preservation Commission:

The property is not in a historic district. The property is adjacent to a property belonging to the Maryland Transportation Authority which is subject to a MET Easement. The subject property is also adjacent to an inventoried historic site, the O'Neil-Dickson House.

#### Planning Advisory Board:

The Planning Advisory Board (PAB) reviewed the request at their August 9, 2006 meeting. The PAB found no argument for change. However, PAB member agreed that a mistake was made in the last comprehensive zoning and voted 3-0 with one abstention to recommend the rezoning of the property to MO (Attachment 16).

STAFF REPORT

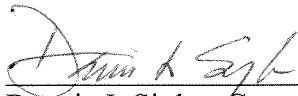
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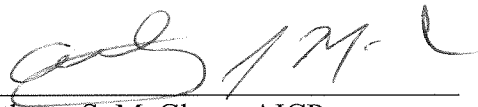
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**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the request to rezone the subject property from AG/Agricultural to Mixed Office (MO) be approved.



Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review



Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

DJS/ASM/jf